

RUXTON HEALTH CARE, V, LLC

This Settlement Agreement is entered into this 25th day of March, 2003 by and between the United States of America, including the United States Attorney for the Eastern District of Virginia ("EDVA") (collectively the "United States"); and the Medicaid Fraud Control Unit ("MFCU") of the Office of the Attorney General, and the Department of Medical Assistance Services ("DMAS"), on behalf of the Commonwealth of Virginia (collectively the "Commonwealth of Virginia"); and Ruxton Health Care V, LLC ("Ruxton"), to resolve any potential civil and administrative liability of Ruxton as the purchaser and transferee of a nursing home owned by Chippenham Associates L.P. ("Chippenham"), the seller for certain prior conduct defined herein. The above sovereigns and entities are referred to herein as "the Parties."

PREAMBLE

A. WHEREAS, Chippenham, the seller, currently owns and operates a 196 bed nursing facility located at 7246 Forest Hill Avenue, Richmond, Virginia 23225, a long-term care skilled nursing facility engaged in the provision of health care services to Medicare and Medicaid beneficiaries, that is currently doing business under the name of Chippenham Manor Nursing Home (the "Facility"), and is currently managed by Richmond Management Associates, LLC ("Richmond"), a limited liability company headquartered in Brentwood, Tennessee;

B. WHEREAS, Chippenham is currently operating as debtor-in-possession under the protection of the United States Bankruptcy Court for the Middle District of Tennessee (the "Bankruptcy Court") in case, In Re: Chippenham Associates, L.P., Case No. 301-00353 (the "Bankruptcy Case"), under Chapter 11 of the United States Bankruptcy Code.

C. WHEREAS, Chippenham has agreed to permanently surrender and transfer to Ruxton

the ownership and operation of the Facility, as a going concern;

D. WHEREAS, as a result of negotiations between Chippenham, its creditors in bankruptcy, and the United States, on the one hand, and Ruxton, as potential purchaser on the other, Chippenham, as the Debtor in bankruptcy, and Ruxton have executed a Purchase and Sale Agreement as amended (the "Purchase Agreement" attached as Exhibit A), which has been submitted to the Bankruptcy Court and approved by the Bankruptcy Court;

E. WHEREAS, the properties and assets of the Facility are intended to be sold to Ruxton and a REIT which will lease the Facility to Ruxton pursuant to the terms of the Purchase and Sale Agreement, pursuant to the order(s) of the Bankruptcy Court;

F. WHEREAS, Ruxton, as purchaser and transferee of the Facility, desires to purchase the Facility free and clear of liabilities and obligations related to a Settlement Agreement executed on January 8, 2002, more fully described in paragraph G, and enter into a new agreement;

G. WHEREAS, on January 8, 2002, a legally binding Settlement Agreement (the "January 8, 2002 Settlement Agreement"), attached as Exhibit B, was entered into by and among the following: the United States of America; the Commonwealth of Virginia; Chippenham; and Richmond, to resolve then pending and potential civil and administrative claims more fully described in paragraphs B through D of the January 8, 2002 Settlement Agreement;

H. WHEREAS, the Parties to this agreement wish to enter into a new, legally binding settlement agreement to provide for the orderly succession of Ruxton to the operation of the Facility, and the Parties agree that Ruxton is not an assignee, successor or transferee of the January 8, 2002 Settlement Agreement and that the January 8, 2002 Settlement Agreement is not legally binding on Ruxton;

I. NOW THEREFORE, for and in consideration of the mutual covenants and conditions

contained herein and other good and valuable consideration, the Parties, intending to be legally bound, enter into the following New Agreement:

RELEASE

1. The conduct covered by this New Agreement incorporates by reference the conduct described in paragraph B of the PREAMBLE of the January 8, 2002 Settlement Agreement.
2. In consideration of the promises made by Ruxton in this New Agreement, the United States and the Commonwealth of Virginia, on behalf of the sovereigns, its officers, agents, agencies, and departments, hereby release and discharge Ruxton from any and all civil or administrative monetary claims, actions, causes of action, liabilities, losses, and damages, including attorneys' fees, costs and expenses, which the United States may have against Ruxton, its parents, affiliates, officers and directors and employees under the False Claims Act, 31 U.S.C. §§ 3729-3733, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a, the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, Virginia's civil Medicaid Fraud statutes §§ 32.1-312 and 313 of the Code of Virginia, and common law theories of payment by mistake, unjust enrichment, breach of contract and fraud for: (a) any deficiencies cited or found in any surveys or inspections conducted by the Virginia Department of Health at the Facility from January 1, 1995 to January 8, 2002 and (b) the adequacy of care (as described in the January 8, 2002 Settlement Agreement, paragraph B) provided during the period January 1, 1995 to January 8, 2002 to the nursing home residents identified in the Department of Health and Human Services Office of Inspector General ("OIG") subpoena dated July 11, 2001.
3. The Parties agree that the releases given in the preceding paragraph specifically exclude the following:
 - a. Any civil or administrative disputes, adjustments, the Centers for Medicare & Medicaid Services ("CMS") enforcement actions or claims relating to matters other than

those for (1) any deficiencies cited or found in any surveys or inspections conducted by the Virginia Department of Health at Chippenham from January 1, 1995 to January 8, 2002 and (2) the adequacy of care (as described in the January 8, 2002 Settlement Agreement, paragraph B) provided during the period January 1, 1995 to January 8, 2002, to the nursing home residents who were the subject of the OIG subpoena dated July 11, 2001.

b. Any civil, criminal or administrative disputes or claims arising under the Internal Revenue Code, Title 26 of the United States Code.

c. Any disputes or claims arising under any express or implied warranties relating to products or services.

d. Any disputes or claims arising under the criminal laws of the United States or the Commonwealth of Virginia.

e. Except as explicitly stated otherwise in this New Agreement, any administrative liability, including mandatory or permissive exclusion from federal health care programs.

f. Subject to the enforcement provisions of paragraphs 21 and 22, any obligations created by this New Agreement.

g. Any civil money penalty or termination action by CMS, if any such action is based on matters other than deficiencies cited or found in any surveys or inspections conducted by the Virginia Department of Health at the Facility from January 1, 1995 to January 8, 2002 and the adequacy of care (as described in the January 8, 2002 Settlement Agreement, paragraph B) provided during the period January 1, 1995 to January 8, 2002.

h. Except as explicitly stated otherwise in this New Agreement, any liability, obligation, agreement or rights discussed in the letter agreement dated March 6, 2003 between the Department of Medical Assistance Services and Ruxton Healthcare V, L.L.C. hereto attached as Exhibit "C".

4. In consideration for such repose and on the terms and conditions contained herein, Ruxton fully and finally releases, dismisses, and forever discharges the United States, its agencies, employees, servants, and agents, from any and all claims, causes of action, liabilities, losses, appeals of remedies imposed by CMS or OIG, and damages, including attorneys' fees, costs and expenses, which Ruxton has asserted or could have asserted against the United States, its agencies, employees, servants, and agents before the effective date of this New Agreement for: (a) any deficiencies cited or found in any surveys or inspections conducted by the Virginia Department of Health at Chippenham from January 1, 1995 to the present and (b) the adequacy of care (as described in the January 8, 2002 Settlement Agreement, paragraph B) provided during the period January 1, 1995 to the present on behalf of the nursing home residents identified in the OIG subpoena dated July 11, 2001.

ESCROW FUND FOR THE BENEFIT OF FACILITY RESIDENTS

5. Pursuant to the obligation described in paragraph 3. of the January 8, 2002 Agreement, Chippenham established and now manages an escrow account for the maintenance of a separate cash reserve of funds (the "Escrow Fund") for the benefit of residents of the Facility. As further provided in paragraph 3 of the January 8, 2002 Settlement Agreement, to the extent any monies in the Escrow Fund are not used or cannot be used by Chippenham, such monies will revert to the Department of Justice as civil restitution. Inasmuch as the monies in the Escrow Fund would consequently otherwise revert to the Department of Justice, the EDVA, on behalf of the Department of Justice, is entitled to instruct Chippenham on the disposition of such funds as of the closing of the sale of the Facility to Ruxton, and agrees to instruct Chippenham to transfer such funds to Ruxton at closing. Ruxton agrees to accept transfer of the remaining cash balance of any monies in the escrow accounts which comprise the Escrow Fund as of such date. Ruxton further agrees to take over the management of these cash proceeds by establishing and operating

Ruxton's own escrow fund (the "Ruxton Escrow Fund"), the proceeds of which are to be used expressly for payment of expenses associated with the federal monitors, quality of care improvements, and other approved expenditures. The EDVA shall have sole authority for oversight of the Ruxton Escrow Fund and any agreement(s) pertaining thereto; and shall approve any expenditures from the Ruxton Escrow Fund.

6. Upon the completion of an agreed upon six (6) month monitoring period, Ruxton shall prepare a Final Accounting Report which sets forth all the expenditures from the Ruxton Escrow Fund in a format agreeable to the EDVA. Any costs associated with managing the Ruxton Escrow Account shall not be expensed by Ruxton in its Cost Reports. To the extent any monies in the Ruxton Escrow Fund are not used or cannot be used by Ruxton, all monies will revert to the EDVA as civil restitution from the Chippenham case.

MONITORING

7. Upon the Effective Date of this New Agreement when Ruxton takes over ownership of this Facility, Ruxton agrees to continue the services of the Chippenham monitors, Ms. Marie Boltz and Ms. Susan Renz (the "Monitors"), who have previously been acting as monitors of this Facility since April, 2002. The Monitors will assist and monitor Ruxton's compliance with the terms and conditions of this New Agreement and all applicable state and federal provisions regarding quality of care for a period of six (6) months from the Effective Date of this New Agreement.

8. If the Monitors resign or are removed for any reason by mutual agreement of the Parties prior to the completion of the six (6) month term of appointment, the United States and Ruxton shall mutually agree upon the appointment of a successor Monitor. If the Parties are unable to agree on the appointment of a successor Monitor, the United States may nominate the Monitor and petition the United States District Court for the Eastern District of Virginia for the

appointment of its nominee.

9. The Monitors shall visit the Facility for a period of six (6) months from the Effective Date of this New Agreement and shall have access to all current nursing home residents, their medical records, records in the possession or control of Ruxton (e.g. staffing records and quality assurance reviews) and Ruxton staff and employees, for purposes of ensuring coordination of responses to identified problems and enabling the Monitors to fulfill their duties. Ruxton shall ensure the Monitors' immediate access to facilities, individuals, and documents, and assist in obtaining the full cooperation of its current employees, contractors, and agents.

10. The Monitors shall evaluate compliance by Ruxton with the requirements of this New Agreement and shall advise management and staff as to recommended steps and procedures that, in the Monitors' view, may be implemented to facilitate compliance with this New Agreement. The Monitors shall inspect and evaluate the CEN/PAY – Labor Hours Per Pay Period Reports ("CEN/PAY Reports") showing labor hours per patient day ("LHPPD") and may make recommendations as to increased staffing levels or staffing adjustments.

11. The Monitors shall provide an exit interview to appropriate officials of Ruxton following the conclusion of each visit to the Facility and may make recommendations both informally and in writing. At the request of Ruxton, the Monitors may provide or arrange for direct technical assistance to facilitate compliance with this New Agreement. The cost of mutually agreed upon outside technical assistance shall be paid by Ruxton. Technical assistance provided for by the Monitors will be compensated within the terms of this agreement. The Monitors shall have no financial interest in any source of outside technical assistance recommended to the Facility.

12. It is the express intent of the Parties that the Monitors work in a cooperative and amicable manner with Ruxton, provide technical assistance, as requested, and otherwise facilitate compliance with this New Agreement. Ruxton shall cooperate with the Monitors appointed to

assist in the implementation of this New Agreement.

13. The Monitors shall have no authority to direct the care of any individual resident but may notify the Medical Director and/or the Director of Nursing of a recommendation that any resident be seen by a physician within a reasonable period of time in light of the resident's condition.

Ruxton agrees that it will contact the resident's attending physician when requested by the Monitors, and will follow the directions of the physician, if any. If, in the professional judgment of the Monitors, an emergency exists with respect to any resident or other condition, the Monitors shall immediately notify the Administrator or appropriate supervisor on duty at Ruxton so that immediate remedial action can be taken. Ruxton shall record such requests on the document used as the "24 Hour Report" and respond according to the Facility's protocols. Nothing in this paragraph shall be construed as preventing the Monitors from notifying the Parties immediately. The Parties agree to confer and address the issues raised by the Monitors as soon thereafter as is practicable.

14. The Monitors may confer and correspond with the Parties on an ex parte basis, and both the Parties and the Monitors shall participate in regularly scheduled conferences (which may be attended by phone) to discuss the Monitors' reports.

15. Upon the Effective Date of this New Agreement, the Monitors shall meet with Ruxton management to implement the same monitoring protocol for the same agreed upon fees which were in place under the previous Chippenham monitoring protocol. The Monitors shall submit a budget to the EDVA and Ruxton for the six (6) month monitoring period. During the agreed upon six months period, the Monitors shall visit Ruxton at least monthly, but may visit more often if they deem this is appropriate.

16. Within fourteen calendar days following the conclusion of each visit, the Monitors shall write a brief and concise written report documenting any recommendations relating to

compliance or any other matter addressed in this New Agreement. The report shall document any recommendations relating to compliance and include all remedial actions, ongoing quality initiatives or other actions taken by Ruxton in response to the identified issues. The Monitors shall deliver the report to the Parties to this New Agreement by delivering a copy to the following named persons (or his or her designee) via electronic mail or facsimile, and USPS regular mail, or such other method of delivery agreed upon by the Parties.

Constance H. Frogale
Assistant United States Attorney
United States Attorney's Office
Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, VA 22314
Fax: (703) 299-3983

Jeff Smith, Administrator
Chippenham Manor Nursing Center
7246 Forest Hill Avenue
Richmond, VA 23225
Fax: (804) 272-7129

Eamonn Reilly
Ruxton Health Care
10420 Little Patuxent Parkway
Suite 210
Columbia, MD 21044
Fax: (410) 715-8786

Attorney for Ruxton
Robert Hill, Esq.
Reed Smith LLP
1301 K Street, NW
Suite 1100 – East Tower
Washington, DC 20005
Fax: (202) 414-9299

Upon receipt of the report, Ruxton shall have the opportunity to submit a response regarding any concerns raised by the Monitors and provide evidence to rebut the Monitors' conclusions and explain subsequent actions taken by Ruxton in response to these concerns. Ruxton's response, if

any, shall be submitted within ten (10) business days of receipt by Ruxton of the Monitors' report, via electronic mail or facsimile and USPS regular mail, as directed by the EDVA. Ruxton and the United States agree that, at the request of Ruxton or the EDVA, the Parties shall meet in person or via teleconference promptly to discuss any issues or concerns raised by the Monitors or to otherwise facilitate compliance. Ruxton is not bound by the Monitors' recommendations or conclusions but agrees to consider and address them in good faith. In the event the United States believes there has been a breach of this New Agreement, nothing in this New Agreement shall prevent the United States from calling the Monitors as a witness in any proceeding brought to enforce this New Agreement.

17. The Monitor's compensation and reasonable expenses shall be set forth in the budget referred to in paragraph 14 above. Ruxton shall pay from the Ruxton Escrow Account all reasonable costs and expenses of the Monitor consistent with the hourly rates established. The Parties agree that the total budget for payments and expenses to the monitors for the six month program shall not exceed the amount of \$48,000 unless unforeseen circumstances arise. These expenses are to be paid from the Ruxton Escrow Fund. However, use of the \$48,000 for the Monitors may be reduced to pay for other special consultants (such as culinary, recreational, performance improvement, education or other specialists with special skills), but only if Ruxton, the EDVA, and the Monitor(s) all agree to this expenditure.

18. The Monitors shall submit itemized monthly invoices to the Administrator of the Facility that satisfactorily account for time and reasonable travel and lodging expenses incurred in carrying out the duties of Monitors in accordance with the budget. The Monitor shall certify that the invoices are accurate. Failure to pay the Monitor within thirty (30) calendar days of review and approval of his/her invoice shall constitute breach of this New Agreement. At all times the Monitor shall coordinate his or her activities, including interviews and meetings, with

the Administrator or the Director of Nursing and/or management personnel to maximize participation and to minimize disruption in the day-to-day operations of the Facility. The Monitors may visit the Facility at any time without notice. All information, including identifiable personal health care and other information of all residents and other information regarding residents and staff, and all documents pertaining thereto, are strictly confidential and shall not be disclosed by the Monitors to anyone other than the Parties except as necessary to enforce this Agreement, or as otherwise required by law, regulation, or official process. In the event that the Monitors identify a situation that the United States believes immediately jeopardizes the health and safety of residents of the Facility, the United States shall notify the Parties, and may take whatever action authorized by law it deems necessary to ensure the health and safety of the residents.

19. Upon the completion of the six (6) month monitoring period, Monitors shall prepare a comprehensive Final Report evaluating the status of compliance by Ruxton with the provisions of this New Agreement, as well as Ruxton's responses to each area of concern, and deliver such Final Report to the Parties pursuant to the provisions of paragraph 16. After delivery of the Final Report, monitoring activities shall terminate. If the United States believes that the Final Report reveals material violations of federal or state law, the United States shall promptly notify Ruxton, and monitoring activities shall resume until such violations are cured, at which time monitoring activities shall terminate. In any court proceeding Ruxton may file seeking the termination of the Monitor, Ruxton shall bear the burden of establishing that it has fully and faithfully implemented the provisions of this New Agreement. The Parties agree that the United States District Court for the Eastern District of Virginia is the appropriate forum for any such action.

FALSIFICATION OF RECORDS

20. Ruxton will enforce its existing policies requiring that all standards relating to the proper means of entering and where necessary, changing information in a medical record be strictly adhered to. Ruxton shall train its staff that falsification or improper alteration of any resident record and other document related to resident care is forbidden. Ruxton shall insure that each employee understands the policy forbidding any falsification or improper alteration and the appropriate manner in which to make entries into medical records and, should a change be necessary, the acceptable means of documenting the changes and the reasons therefore. Ruxton further agrees that it will terminate the employment of any person found to have willfully or through deliberate ignorance or reckless disregard caused a falsification or improper alteration of any record maintained at the Facility. Clinical disagreement does not constitute falsification for purposes of this section.

COMPLIANCE and ENFORCEMENT

21. Ruxton agrees that it will comply fully with the applicable laws, rules and regulations governing the Medicare and Medicaid programs, including the Nursing Home Reform Act of 1987, as amended and codified at 42 U.S.C. §§ 1395, et. seq., 1396 et. seq.; 42 C.F.R. Parts 483, 488. Ruxton has produced a Corporate Compliance Plan to the EDVA that incorporates the policies and principles set forth in HHS-OIG's Compliance Program Guidance for Nursing Facilities, 65 Federal Register 14289 (March 16, 2000). The Corporate Compliance Plan contains a comprehensive set of specific policies and procedures to ensure compliance by Ruxton at the Facility, including such issues as a Code of Conduct; Financial, Employee, and Service Oversight; and Quality of Care. The Corporate Compliance Plan has been reviewed and approval by the EDVA.

22. If Ruxton fails to comply with any of the terms of this New Agreement, or if any of Ruxton's representations or warranties be willfully and materially false, the United States may, at its sole discretion, exercise one or more of the following rights:

- a. Seek specific performance of this New Agreement, in which case the prevailing party shall be entitled to an award of reasonable attorneys fees and costs; or
- b. Exercise any other right granted by law.

23. If the United States exercises any of its rights under paragraph 22 of this New Agreement, Ruxton specifically reserves all of its rights to challenge, defend and contest any such action.

24. Ruxton and its agents, employees, contractors and/or subcontractors agree that they will not intimidate or retaliate against any individual or individuals who may cooperate with any effort to enforce the provisions of this New Agreement or express other concerns to the government either voluntarily or in response to any future inquiries by state or federal officials. However, this provision may not be used as a shield by any employee that is disciplined or fired pursuant to the Ruxton's obligations under this New Agreement, the terms of its Compliance Plan, or for failing to adequately perform his or her duties. Ruxton will timely advise the Monitors of any disciplinary actions resulting in suspension or termination, and the reasons therefore, that occur during the monitoring period. Nothing in this paragraph shall limit in any way a person(s) right to sue as a relator under the Federal False Claims Act, 31 U.S.C. §§ 3729-3733.

25. Except as specifically provided otherwise in this New Agreement, the obligations imposed by this New Agreement on Ruxton shall be in effect for a period of six (6) months from the Effective Date of this New Agreement.

OTHER PROVISIONS

26. This New Agreement constitutes the complete agreement between the Parties and may

not be amended except by the written consent of the Parties.

27. The undersigned individuals signing this New Agreement on behalf of Ruxton represent and warrant that they are authorized by Ruxton to execute this New Agreement. The undersigned United States and Commonwealth of Virginia signatories represent that they are signing this New Agreement in their official capacities and that they are authorized to execute this New Agreement and to bind their respective sovereigns to the terms and conditions herein.

28. Each party to this New Agreement will bear its own legal and other costs incurred in connection with this matter.

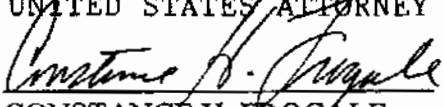
29. This New Agreement is legally binding and judicially enforceable by the Parties and it shall be applicable to and binding upon all of the Parties, their officers, agents, employees, assigns, and successors, including any transferees of Ruxton.

30. The effective date ("Effective Date") of this New Agreement will be the date of the last signatory's signing of a fully executed copy of the New Agreement, and this Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original.

FOR THE UNITED STATES OF AMERICA:

PAUL J. McNULTY
UNITED STATES ATTORNEY

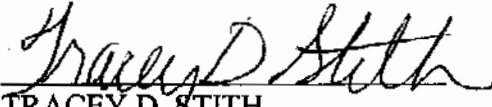
BY:


CONSTANCE H. FROGALE
ASSISTANT U.S. ATTORNEY
2100 Jamieson Avenue
Alexandria, VA 22314

Date

3/26/03

FOR THE COMMONWEALTH OF VIRGINIA:


TRACEY D. STITH
ASSISTANT ATTORNEY GENERAL
OFFICE OF THE VIRGINIA ATTORNEY GENERAL
MEDICAID FRAUD CONTROL UNIT

Date

3/24/03


RANDALL CLOUSE, DIRECTOR
OFFICE OF THE VIRGINIA ATTORNEY GENERAL
MEDICAID FRAUD CONTROL UNIT

Date


3/24/03


PATRICK FINNERTY, DIRECTOR
VIRGINIA DEPARTMENT OF MEDICAL
ASSISTANCE SERVICES

Date

3/24/03

FOR RUXTON:


EAMONN REILLY
CHIEF EXECUTIVE OFFICER
RUXTON HEALTH CARE V, LLC

03/24/63
Date